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001

OCT 16 2006

*IFW*

**McINTYRE  
HARBIN**

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October 16, 2006

Via Facsimile 571-273-8300  
Office of Petitions  
U.S. Patent and Trademark Office  
Alexandria, VA 22314-1450

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OFFICE OF PETITIONS

Re: U. S. Pat. Application 09/251,297  
Inventor: Larrick, et al.  
Filed: 2/17/1999

Dear Sir or Madame:

We transmit a courtesy copy of a petition filed in the mail room last Friday, October 13<sup>th</sup>, with a \$1500 fee and kindly ask for your prompt consideration and favorable action regarding the referenced U.S. patent application.

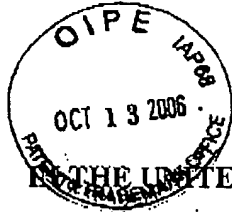
Sincerely,

  
Lawrence Harbin

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OCT 16 2006

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:

**Larrick, et al.**

Serial No.: 09/251,297

Group Art Unit: 2634

Filed: February 17, 1999

Examiners: Evay Zheng

For: **ULTRA WIDEBAND  
TRANSMITTER AND RECEIVER**

October 13, 2006

**Petition for Revival, or Alternatively,  
Reconsideration of the Decision on Petition**

Office of Petitions, Mail Stop Petitions  
Commissioner for Patents  
Alexandria, VA 22314-1450  
(Fax (571) 273-8300)

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Sir:

In response to the Decision on Petition mailed September 26, 2006, applicants hereby petition to revive the above-identified application under 37 CFR §1.137(a) or (b) due to unintentional or unavoidable abandonment, or alternatively, request reconsideration of the Decision on the petition to withdraw the notice of abandonment. The application purportedly became abandoned due to lack of receipt of corrected drawings. The maximum fee of \$1500 (unintentional abandonment) accompanies this petition.

**Facts**

On October 7, 2005, applicants filed 17 sheets of corrected replacement drawings, which were duly entered into the record. (Thus, there was no basis for abandonment, as deemed by the Office of Publications.)

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Serial No. 09/251,297  
October 13, 2006

On January 17, 2006, the Office mailed a Notice of Allowance erroneously indicating that corrected drawing must be filed.

On March 14, 2006 applicants paid the issue fee of \$1400 but did not respond to the "moot" drawing requirement since corrected drawings had already been filed and duly entered into the prosecution file of the application.

On June 7, 2006, the Office mailed a Notice of Abandonment indicating, incorrectly, that no corrected drawings had been received as required by the notice of allowance.

On June 12, 2006, upon receipt of the Notice of Abandonment, the undersigned counsel telephoned the Office of Publications (Ms. Blanch Mae) and informed that the Office had made a mistake because corrected drawings had already been filed and duly entered into the record. Mr. Blanch Mae, after inspecting the PAIR, confirmed that all 17 sheets drawings were, in fact, already present in the file and instructed the undersigned to fax a petition to withdraw the notice of abandonment along with copies of the previously filed drawings. When the undersigned again contacted the Office of Publication on June 27, 2006 to ascertain the status of the application, Ms. Mae put the undersigned in touch with her supervisor, Ms. Sheryl McCloud, who instructed the undersigned to again fax to the Office of Publications the petition to withdraw the notice of abandonment, which the undersigned did that same day (fax cover sheet attached).

On September 21, 2006, the undersigned again telephoned Ms. Sheryl McCloud of the Office of Publications to check on the status of the application and, upon checking into the matter, Ms. McCloud again asked that the undersigned again fax the petition, which the undersigned did that same day (fax cover sheet attached).

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Serial No. 09/251,297  
October 13, 2006

On September 26, 2006, the Office of Publication issued the Decision of Petition dismissing the petition indicating that applicants should have filed a petition within two months of the "moot" drawing requirement contained in the notice of allowance.

On October 2, 2006, the undersigned telephoned Examiner Fan in an effort to obtain a "corrected" notice of allowance to remove the drawing requirement. Examiner Fan, who also acknowledged receipt of corrected drawings, indicated that the Office should have reviewed the application file for receipt of corrected drawings of October 7, 2005 before sending the Notice of Allowance to applicants on January 17, 2006, but had failed to do so. Examiner Fan indicated the oversight may have occurred due to the long delay between his internally allowance on June 22, 2005 and the actual mailing of the Notice of Allowance to applicants on January 17, 2006, which resulting in the Office overlooking of the interim filing of corrected drawings. Despite the oversight, however, Examiner Fan indicated that he could not issue a "corrected" notice of allowance and that applicants should file a petition to revive.

On October 13, 2006, applicants submit this petition to revive, but in the first instance, request reconsideration of the petition to withdraw the notice of abandonment because the drawing requirement, when issued, was moot and/or mistakenly made by the Office.

**Request for Revival and/or Withdrawal of Notice of Abandonment**

The entire period of delay on the part of applicants, if any, was unintentional or unavoidable.

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Serial No. 09/251,297  
October 13, 2006

No response to any outstanding requirement is filed with this petition because the drawing requirement is moot as corrected drawings were already filed and entered into the record on October 7, 2005.

The issue fee and publication fee were already paid on March 14, 2006.

Since the application was filed after June 8, 1995, no terminal disclaimer is required.

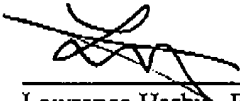
The entire delay, if any, in filing any required reply from the due date for any required reply until the filing of a grantable petition under 37 CFR 1.137(a) or (b) was unintentional or unavoidable.

Due to the circumstances, applicants have been unnecessarily burdened and believe the abandonment, if it in fact occurred, was unavoidable since, in the undersigned counsel's 34 years of practice, the Office has never required a response to moot issue raised in a paper issued by the Office. Such matters were always resolved by a telephone call, which applicants attempted to do in this case.

Applicants request revival and prompt issuance of the patent due to unintentional or unavoidable abandonment.

Applicants also request a refund of the \$1500 petition fee, or portion thereof.

Respectfully submitted,  
McINTYRE HARBIN & KING LLP

  
\_\_\_\_\_  
Lawrence Harbin, Reg. No. 27,644  
500 Ninth Street S.E.  
Washington, DC 20003  
202.546-1100 tel. 202.543.9230 fax

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 \*\*\* TX REPORT \*\*\*  
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OCT 16 2006

TRANSMISSION OK

TX/RX NO	0596	
CONNECTION TEL		7033085065
SUBADDRESS		
CONNECTION ID		
ST. TIME	09/21 14:14	
USAGE T	09'30	
PGS.	20	
RESULT	OK	

**McINTYRE  
HARBIN**

**& KING LLP**  
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email address: lharbin@mhk-law.com

*Resent 9/21/2006  
9/21/06*

*Sheryl McClell  
571-273-9903 for*

June 12, 2006

Via Facsimile 703-308-5065  
Office of Publications  
U.S. Patent and Trademark Office  
Alexandria, VA 22314-1450

Re: U. S. Pat. Application 09/251,297  
Inventor: Larrick, et al.  
Filed: 2/17/1999

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OFFICE OF PETITIONS

Dear Sir or Madame: -

Per our telephone conference with the Office of Publications (Ms. Blanch Mae) this morning, we transmit a petition to withdraw the recently mailed notice of abandonment in connection with the referenced patent application.

Sincerely,

*Sheryl McClell*  
*Sheryl McClell*  
 Lawrence Harbin

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO 0528  
CONNECTION TEL 5712738893  
SUBADDRESS  
CONNECTION ID  
ST. TIME 06/27 16:09  
USAGE T 05'01  
PGS. 20  
RESULT OK

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## FACSIMILE TRANSMITTAL SHEET

TO:	Ms. Sheryl McCloud	FROM:	Lawrence Harbin
COMPANY:	USPTO Office of Publications	DATE:	6/27/2006
FAX NUMBER:	571-273-8893 273-9903	TOTAL NO. OF PAGES INCLUDING COVER:	20
PHONE NUMBER:	703-308-9250 x153	SENDER'S REFERENCE NUMBER:	
RE:		YOUR REFERENCE NUMBER:	

☐ URGENT    ☐ FOR REVIEW    ☐ PLEASE COMMENT    ☐ PLEASE REPLY    ☐ PLEASE RECYCLE